

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CRIMINAL PRODUCTIONS, INC.,

Plaintiff,

v.

HEATHER LUURS, an individual;
LUCY KURIA, an individual;
LIANG DENG, an individual;
SUSAN DEWLAD, an individual;
MOSSER VALERIE, an individual;
CORNEL ARDELEANU, an individual;
VANCE BAUNE, an individual;
JOSHUA LEWIS, individual;
NIV ROHASH, an individual;
JOSEPH DAVID ORNDONEZ, an individual;
KRISTIN WHITE, an individual;
RODEL ESTIOCO, an individual;
BLESSINGS KAMBALA, an individual;
GREGORIO DEGUZMAN, an individual;
MARIO ALCZAR, an individual; and
SCOTT BAIN, an individual,

Defendants.

Civil Action No. 16-cv-1352RAJ

FIRST AMENDED COMPLAINT FOR
COPYRIGHT INFRINGEMENT

JURY TRIAL REQUESTED

Plaintiff submits its first amended complaint against Defendants:



I. INTRODUCTION

1. Plaintiff brings this action in an effort to stop Defendants and others from copying and distributing to others unauthorized copies of the Plaintiff's copyrighted motion picture through the BitTorrent file sharing protocol. Defendants' infringements allow them and others to unlawfully obtain and distribute unauthorized copyrighted works that the Plaintiff expended significant resources to create. Each time a Defendant unlawfully distributes an unauthorized copy of the Plaintiff's copyrighted motion picture to others over the Internet, each person who copies that motion picture can then distribute that unlawful copy to others without any significant degradation in sound and picture quality. Thus, a Defendant's distribution of even a part of an unlawful copy of a motion picture can further the nearly instantaneous worldwide distribution of that single copy to an unlimited number of people. Further, Defendants acts of distributing Plaintiff's motion picture support, maintain and further a for-profit exploitation of the works of Plaintiff and others. The Plaintiff now seeks redress for this rampant infringement of its exclusive rights.

II. JURISDICTION AND VENUE

2. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).

3. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).

4. Venue in this District is proper under 28 U.S.C. § 1391(b) and/or 28 U.S.C. § 1400(a). Although the true identity of each Defendant is unknown to Plaintiff at this time, on information and belief each Defendant may be found in this District and/or a substantial part of the acts of infringement complained of herein occurred in this District. On information and belief, personal jurisdiction in this District is proper because each Defendant, without consent or permission of Plaintiff as exclusive rights owner, distributed and offered to distribute over the Internet copyrighted works for which Plaintiff has exclusive rights.

III. PARTIES

A. PLAINTIFF AND ITS COPYRIGHT

5. Plaintiff Criminal Productions, Inc. is a developer and producer of the motion picture *Criminal* for theatrical exhibition, home entertainment and other forms of distribution. The motion picture was first published April 15, 2016.

6. *Criminal* is protected by the Copyright Act in motion picture Registration No. PA 1-984-029, effective April 15, 2016. (Exhibit A)

7. Under the Copyright Act, Plaintiff is the proprietor of all right, title and interest in *Criminal*, including the exclusive rights to reproduce and distribute to the public as well as the right to sue for past infringement.

8. *Criminal* contains wholly original material that is copyrightable subject matter under the laws of the United States. It is an action thriller directed by Ariel Vromen and stars Kevin Costner, Ryan Reynolds and Gal Gadot, among others. It is easily discernible as a professional work as it was created using professional performers, directors, cinematographers, lighting technicians, set designers and editors and with professional-grade cameras, lighting and editing equipment. It has significant value and has been created, produced and lawfully distributed at considerable expense. *Criminal* is currently offered for sale in commerce, playing in theaters and available for rental and/or purchase from Amazon, iTunes and Netflix, among others.

9. Defendants have notice of Plaintiff's rights through general publication and advertising and more specifically as identified in the content of the motion picture, advertising associated with the motion picture, and all packaging and copies, each of which bore a proper copyright notice.

B. DEFENDANTS

10. Upon information and belief, each Defendant copied and distributed Plaintiff's copyrighted motion picture *Criminal*. When originally filed, the true names of Defendants were

1 unknown to Plaintiff. Rather, each Defendant was known to Plaintiff only by the Internet
2 Protocol (“IP”) address assigned by an Internet Service Provider (“ISP”) and the date and at the
3 time at which the infringing activity of each Defendant was observed. On information and belief,
4 ISP’s such as Comcast or CenturyLink generally assign an IP address to a single party for
5 extended periods of time, often for months or even years. As such it is likely that for all relevant
6 times each Defendant was the sole party responsible for and in control of IP address. As
7 explained in further detail below, through geolocation, the IP address used by each Defendant
8 has been traced to the Western District of Washington. The IP addresses, hash value, dates and
9 times, ISP and geolocation contained in Exhibit B correctly reflect the subscribers using the IP
10 addresses that were all part of a “swarm” of users that were reproducing, distributing, displaying
11 and/or performing the copyrighted work.

12 11. In addition, the Court authorized Plaintiff to conduct expedited discovery with the
13 ISP that assigned the IP addresses to each Defendant in this case. Plaintiff promptly served the
14 subpoena on the ISP. The ISP subsequently responded to the subpoena providing the identity of
15 each Defendant, where available.

16 12. After receipt of the identity of each Defendant, Plaintiff engaged in further due
17 diligence in a good faith effort to confirm, on information and belief, that the identified
18 subscriber was the person responsible for the infringing conduct or, in the alternative, that
19 another party with access to the IP address of the subscriber was responsible. For example, each
20 IP address has been observed associated with significant BitTorrent activity and with the
21 exchange of multiple other titles on peer-to-peer networks apart from but in some instances close
22 in time to that of motion picture in this case. The volume, titles and persistent observed
23 BitTorrent activity associated with each Defendant’s IP address indicate (a) that each Defendant
24 is not a transitory or occasional guest, but either the primary subscriber of the IP address or
25 someone who resides with the subscriber and is an authorized user of the IP address; (b) that any
26 user of the IP address would likely have been aware of the bandwidth devoted to this activity

1 through general service slowdown throughout the observed period of activity as residential data
2 services typically have limited capacity; (c) that such subscriber or resident of the location is
3 likely to have been aware of at least some of the infringing activity throughout the observed
4 period of activity; and/or (d) that each Defendant is not a child, but more likely an adult, often
5 with mature distinct tastes.

6 13. In certain instances, the pattern of BitTorrent activity associated with the IP
7 address may have been observed to cease on or near dates coinciding with notices sent by the
8 ISP or Plaintiff, providing a further indication that the subscriber either was the infringer or was
9 award of the ongoing infringement utilizing the IP address assigned to the subscriber, and was in
10 a position to control ongoing BitTorrent activity.

11 14. Google address mapping and/or county records were investigated to confirm
12 ownership/rental status of and residence at the property associated with the IP address, as well as
13 observe the physical makeup and layout of the house and neighborhood to anticipate possible
14 claims that a wireless signal was high jacked by someone outside of the residence. Further, given
15 the standard security measures imposed by the ISP to prevent unauthorized use of an IP address,
16 the volume of piracy demonstrated over the extended observation period could not be the result
17 of someone driving by, a temporary houseguest or a hacker sitting in a car on the street

18 15. In some instances, social media sites such as Facebook and LinkedIn were used to
19 obtain further information on the subscriber.

20 16. Finally, in an exercise of caution, multiple letters were sent to the identified
21 individual, or their counsel to the extent Plaintiff was made aware thereof, informally requesting
22 their voluntary participation in identifying the actual infringer, to the extent that is different from
23 the subscriber. Where responses were received, Plaintiff attempted further informal follow-up
24 with the subscriber or their attorney, again in an effort to ensure, as much as possible short of
25 formal litigation proceedings, that each Doe Defendant was properly named.
26

1 17. Based on the investigation to date, and on information and belief, Plaintiff
2 identifies the Does remaining in this case on information and belief as follows:

3 18. ISP Comcast assigned the IP address 67.183.105.118 to Doe 1, Defendant
4 Heather Luurs, 366 SW 3rd St. Apt B14, Chehalis, WA 98532, for a period of time, including but
5 not limited to 2016-08-23 18:53:10 UTC, and Defendant's IP address was observed infringing
6 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
7 location.

8 19. ISP Comcast assigned the IP address 67.168.176.96 to Doe 2, Defendant Lucy
9 Kuria, 29708 45th Ave. S, Auburn, WA 98001, for a period of time, including but not limited to
10 2016-08-21 15:51:44 UTC, and Defendant's IP address was observed infringing Plaintiff's
11 motion picture at that time. On information and belief, Defendant resides at the noted location.

12 20. ISP Comcast assigned the IP address 24.22.134.187 to Doe 3, Defendant Liang
13 Deng, 10721 Meridian Ave. N. Apt 413C, Seattle, WA 98133, for a period of time, including but
14 not limited to 2016-08-21 04:14:11 UTC, and Defendant's IP address was observed infringing
15 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
16 location.

17 21. ISP Comcast assigned the IP address 73.181.172.140 to Doe 4, Defendant Susan
18 Dewlad, 10531 25th Dr. SE, Everett, WA 98208, for a period of time, including but not limited to
19 2016-08-17 13:09:30 UTC, and Defendant's IP address was observed infringing Plaintiff's
20 motion picture at that time. On information and belief, Defendant resides at the noted location.

21 22. ISP Comcast assigned the IP address 73.221.119.229 to Doe 5, Defendant Mosser
22 Valerie, 16605 6th Ave W. Apt G203, Lynnwood, WA 98037, for a period of time, including but
23 not limited to 2016-08-15 13:01:39 UTC, and Defendant's IP address was observed infringing
24 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
25 location.
26

1 23. ISP Comcast assigned the IP address 73.164.177.208 to Doe 6, Defendant Cornel
2 Ardeleanu, 12907 NE 3rd Ave, Vancouver, WA 98685, for a period of time, including but not
3 limited to 2016-08-14 15:19:13 UTC, and Defendant's IP address was observed infringing
4 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
5 location.

6 24. ISP Comcast assigned the IP address 73.25.34.141 to Doe 7, Defendant Vance
7 Baune, 318 SW 15th Ave Apt 233, Battle Ground, WA 98604, for a period of time, including but
8 not limited to 2016-08-14 04:32:42 UTC, and Defendant's IP address was observed infringing
9 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
10 location.

11 25. ISP Comcast assigned the IP address 71.231.245.9 to Doe 8, Defendant Joshua
12 Lewis, 9138 Bldg Apt A-303A Fort Lewis, WA 98433, for a period of time, including but not
13 limited to 2016-08-12 03:59:20 UTC, and Defendant's IP address was observed infringing
14 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
15 location.

16 26. ISP Comcast assigned the IP address 73.254.237.71 to Doe 9, Defendant Niv
17 Rohash, 950 Harrington Ave NE Apt. S521, Renton, WA 98056, for a period of time, including
18 but not limited to 2016-08-11 10:47:22 UTC, and Defendant's IP address was observed
19 infringing Plaintiff's motion picture at that time. On information and belief, Defendant resides at
20 the noted location.

21 27. ISP Comcast assigned the IP address 73.83.51.123 to Doe 10, Defendant Joseph
22 David Orndonez, 5505 105th St NE, Marysville, WA 98270, for a period of time, including but
23 not limited to 2016-08-10 04:49:47 UTC, and Defendant's IP address was observed infringing
24 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
25 location.
26

1 28. ISP Comcast assigned the IP address 73.225.182.183 to Doe 11, Defendant
2 Kristin White, 318 Dessins St. SW, Tumwater, WA 98501, for a period of time, including but
3 not limited to 2016-08-09 03:47:54 UTC, and Defendant's IP address was observed infringing
4 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
5 location.

6 29. ISP Comcast assigned the IP address 24.17.41.166 to Doe 13, Defendant Rodel
7 Estioco, 2840 SW Raymond St. Unit 302, Seattle, WA 98126, for a period of time, including but
8 not limited to 2016-08-08 16:41:56 UTC, and Defendant's IP address was observed infringing
9 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
10 location.

11 30. ISP Comcast assigned the IP address 73.35.159.123 to Doe 14, Defendant
12 Blessings Kambala, 10101 7th Ave SE Apt 325 Everett, WA 98208, for a period of time,
13 including but not limited to 2016-08-06 09:39:10 UTC, and Defendant's IP address was
14 observed infringing Plaintiff's motion picture at that time. On information and belief, Defendant
15 resides at the noted location.

16 31. ISP Comcast assigned the IP address 73.35.185.21 to Doe 15, Defendant Gregorio
17 Deguzman, 458 SW Erie Cir. Oak Harbor, WA 98277, for a period of time, including but not
18 limited to 2016-08-05 04:31:22 UTC, and Defendant's IP address was observed infringing
19 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
20 location.

21 32. ISP Comcast assigned the IP address 24.16.162.215 to Doe 16, Defendant Mario
22 Alcazar, 11731 High Sierra Ln. NW Apt. 104, Silverdale WA 98383, for a period of time,
23 including but not limited to 2016-08-04 05:20:27 UTC, and Defendant's IP address was
24 observed infringing Plaintiff's motion picture at that time. On information and belief, Defendant
25 resides at the noted location.
26

1 33. ISP Comcast assigned the IP address 67.168.215.126 to Doe 17, Defendant Scott
2 Bain, 10705 NW 35th Ave., Vancouver, WA 98685, for a period of time, including but not
3 limited to 2016-08-02 05:33:16 UTC, and Defendant's IP address was observed infringing
4 Plaintiff's motion picture at that time. On information and belief, Defendant resides at the noted
5 location.

6 **IV. PEER-TO-PEER NETWORKS AND THE BITTORRENT PROTOCOL**

7 32. Defendants are participants in a peer-to-peer ("P2P") network using the
8 BitTorrent protocol. The BitTorrent protocol makes even small computers with low bandwidth
9 capable of participating in large data transfers across a P2P network. To begin an exchange, the
10 initial file-provider intentionally elects to share a file with a torrent network. This initial file is
11 called a seed. Other users ("peers") connect to the network and connect to the seed file to
12 download. As yet additional peers request the same file each additional user becomes a part of
13 the network from where the file can be downloaded. However, unlike a traditional peer-to-peer
14 network, each new file downloader is receiving a different piece of the data from users who have
15 already downloaded the file that together comprises the whole. This piecemeal system with
16 multiple pieces of data coming from peer members is usually referred to as a "swarm." The
17 effect of this technology makes every downloader also an uploader of the illegally transferred
18 file(s). This means that every "node" or peer user who has a copy of the infringing copyrighted
19 material on a torrent network can also be a source of download, and thus distributor for that
20 infringing file.

21 33. This distributed nature of BitTorrent leads to a rapid viral spreading of a file
22 throughout peer users. As more peers join the swarm, the likelihood of a successful download
23 increases. Essentially, because of the nature of the swarm downloads as described above, every
24 infringer is sharing copyrighted material with other infringers.

25 34. Defendants actions are part of a common design, intention and purpose to hide
26 behind the apparent anonymity provided by the Internet and the BitTorrent technology to

1 download pieces of the copyrighted motion picture in a manner that, but for the investigative
2 technology used by Plaintiff, would be untraceable, leaving the Plaintiff without the ability to
3 enforce its copyright rights. By participating in the “swarm” to download Plaintiff’s copyright
4 motion picture, the Defendants agreed with one another to use the Internet and BitTorrent
5 technology to engage in violation of federal statute to accomplish and unlawful objective.

6 **V. COMPUTER FORENSIC IDENTIFICATION OF BITTORRENT INFRINGEMENT**

7 35. Plaintiff has identified each Defendant by the IP address assigned by the ISP used
8 by each Defendant and the date and at the time at which the infringing activity of each Defendant
9 was observed. This is accomplished using forensic software to collect, identify and record the IP
10 addresses in use by those people that employ the BitTorrent protocol to share, copy, reproduce
11 and distribute copyrighted works.

12 36. More specifically, forensic software is used to scan peer-to-peer networks for the
13 presence of infringing transactions with respect to a particular audiovisual work. Any digital
14 copy of an audiovisual work may be uniquely identified by a unique, coded, string of characters
15 called a “hash checksum.” The hash checksum is a string of alphanumeric characters generated
16 by a mathematical algorithm known as US Secure Hash Algorithm 1 or “SHA-1.” This software
17 facilitates the identification of computers that are used to transmit a copy or a part of a copy of a
18 digital media file identified by a particular hash value by their IP address at a particular date and
19 time. To overcome concerns with spoofing or the like, a direct TCP connection is made to each
20 defendant’s computer. Additional software using geolocation functionality is then used to
21 confirm the geographical location of the computer used in the infringement. Though an IP
22 address alone does not reveal the name or contact information of the account holder, in this case
23 the Doe Defendant, it does reveal the likely general location of the Defendant. IP addresses are
24 distributed to ISPs by public, nonprofit organizations called Regional Internet Registries. These
25 registries assign blocks of IP addresses to ISPs by geographic region. In the United States, these
26 blocks are assigned and tracked by the American Registry of Internet Numbers. Master tables

1 correlating the IP addresses with local regions are maintained by these organizations in a
 2 publicly available and searchable format. An IP address' geographic location can be further
 3 narrowed by cross-referencing this information with secondary sources such as data contributed
 4 to commercial databases by ISPs.

5 37. The end result are evidence logs of infringing transactions and the IP addresses of
 6 the users responsible for copying and distributing the audiovisual work, here *Criminal*. The IP
 7 addresses, hash value, dates and times, ISP and geolocation contained in Exhibit B correctly
 8 reflect the subscribers using the IP addresses and that they were all part of a "swarm" of users
 9 that were reproducing, distributing, displaying or performing the copyrighted work.¹ As noted
 10 above, through early discovery authorized by the Court, Plaintiff was able to identify the Does
 11 associated with the IP addresses observed infringing activity in this case.

12 VI. JOINDER

13 38. Each Defendant is alleged to have committed violations of 17 U.S.C. § 101
 14 *et. seq.* within the same series of transactions or occurrences (e.g. downloading and distribution
 15 of the same copyrighted motion picture owned by Plaintiff) and by using the same means
 16 (BitTorrent network). The infringed work was included in one file related to the torrent file; in
 17 other words, all of the infringements alleged in this lawsuit arise from the exact same unique
 18 copy of Plaintiff's movie as evidenced by the cryptographic hash value. The Defendants are all
 19 part of the exact same "swarm." Defendants' acts occurred in the same series of transactions
 20 because each Defendant downloaded and/or distributed, or offered to distribute *Criminal* to other
 21 infringers on the network, including the Doe Defendants and/or other network users, who in turn

22
 23 ¹ In logs kept in the ordinary course of business, ISPs keep track of the IP addresses assigned to their
 24 subscribers. Once provided with an IP address, plus the date and time of the detected and documented infringing
 25 activity, ISPs can use their subscriber logs to identify the subscriber with more specificity. Only the ISP to whom a
 26 particular IP address has been assigned for use by its subscribers can correlate that IP address to a particular
 subscriber. From time to time, a subscriber of Internet services may be assigned different IP addresses from their
 ISP. Thus, to correlate a subscriber with an IP address, the ISP also needs to know when the IP address was being
 used. Unfortunately, many ISPs only retain for a very limited amount of time the information necessary to correlate
 an IP address to a particular subscriber, making early discovery important.

1 downloaded and/or distributed the motion picture. The temporal proximity of the observed acts
2 of each Defendant, together with the known propensity of BitTorrent participants to actively
3 exchange files continuously for hours and even days, makes it possible that Defendants either
4 directly exchanged the motion picture with each other, or did so through intermediaries and each
5 shared in the distribution of the motion picture to others. Therefore, Defendants each conspired
6 with other infringers on the BitTorrent network to copy and/or distribute *Criminal*, either in the
7 same transaction or occurrence or a series of transactions or occurrences.

8 39. To use BitTorrent, a user intentionally downloads a program that they then install
9 on their computer called a “client.” The BitTorrent client is the user’s interface during the
10 downloading/uploading process. The client may be free, supported by advertising, offer upgrades
11 or add on services for a fee, or a combination of several options. Users then intentionally visit a
12 “torrent site” or network site to find media or content available for download, often using a
13 standard web browser. A torrent site is often advertising revenue or subscription supported index
14 of media or content being made available by other users on the network and maintains a listing
15 of movies and television programs among other protected content. A user then uses the torrent
16 site to connect with other users and exchange or “share” content though the BitTorrent protocol
17 often with many users at the same time.

18 40. Internet piracy, and in particular BitTorrent piracy, though known as peer-to-peer
19 file sharing, is often a for-profit business as many software clients, torrent sites and networks
20 generate millions of dollars in revenue through sales and advertising. To increase the value of the
21 advertising and sometimes subscription access sold by torrent sites, many torrent sites work to
22 expand the pool of available titles and speed of downloads through increasing the number of
23 member peers and thus the desirability of their clients and networks. To accomplish this, they
24 reward participants who contribute by giving them faster download speeds, greater access, or
25 other benefits.
26



1 41. A significant element of the BitTorrent economic model is that those who
2 participate and download movies not only share and upload movies with others, but participants
3 are often rewarded through various means based on the volume and availability of content
4 participants in turn provide the network. In sum, there is a feedback incentive for participants as
5 they obtain not only the benefit of their pirated copy of a movie, but they obtain other benefits by
6 increasing the availability of pirated content to others. As such there are a growing number of
7 users that participate in peer-to-peer networks and receive personal gain or compensation in that
8 the networks they use reward those who provide large numbers of files for upload to others.

9 42. The use of BitTorrent does more than cause harm through the theft of intellectual
10 property. The BitTorrent distribution of pirated files is a model of business that profits from theft
11 through sales and advertising and a system of rewards and compensation to the participants, each
12 of whom contribute to and further the enterprise. Each Defendant is a participant in the
13 BitTorrent distribution of pirated files and the substantially similar conduct of each Defendant
14 furthered a model of business that profits from theft of intellectual property including Plaintiff's
15 motion picture.

16 43. Accordingly, pursuant to Fed.R.Civ.P. 20(a)(2) each of the Defendants is
17 therefore properly joined at least because: (a) the infringement complained of herein by each of
18 the Defendants was part of a series of transactions involving an identical copy of Plaintiff's
19 copyrighted work; (b) the conduct of each Defendant jointly and collectively supported and
20 advanced an economic business model of profiting from the piracy of Plaintiff's copyrighted
21 work; (c) there are common questions of law and fact; and (c) each Defendant knowingly and
22 actively participated in a conspiracy to perform an illegal act and/or injure Plaintiff through use
23 of the BitTorrent protocol to infringe Plaintiff's copyrighted work.

24 44. Permissive joinder in the instant case is to permit a more efficient management of
25 Plaintiff's claims against the several Defendants and to reduce the costs to Plaintiff and
26 Defendants and to reduce the costs and burdens on the Court. Notice is provided, that on being

specifically identified and on request from an identified Defendant, Plaintiff agrees to sever any Defendant that claims prejudice in being joined in this matter and to proceed against each such Defendant individually.

VII. CAUSE OF ACTION—COPYRIGHT INFRINGEMENT

45. Plaintiff realleges the substance of the prior paragraphs.

46. Plaintiff owns the exclusive rights to the commercially released motion picture *Criminal*, which has significant value and has been acquired, produced and created at considerable expense.

47. At all relevant times Plaintiff has been the holder of the pertinent exclusive rights infringed by Defendants to the copyrighted motion picture *Criminal*. The motion picture is the subject of a valid Certificate of Copyright Registration.

48. Plaintiff is informed and believes that each Defendant, without the permission or consent of Plaintiff, has used, and continues to use, an online media distribution system to wrongfully misappropriate, reproduce and distribute to the public, including by making available for distribution to others, *Criminal*. On information and belief, each Defendant participated in a swarm and/or reproduced and/or distributed the same seed file of *Criminal* in digital form either directly with each other. Plaintiff has identified each Defendant by the IP address assigned to that Defendant by his or her ISP and the date and at the time at which the infringing activity of each Defendant was observed.

49. In addition, or in the alternative, Defendants obtained Internet access through an ISP and permitted, facilitated and materially contributed to the extensive use of the Internet through his ISP for infringing Plaintiff's exclusive rights under The Copyright Act by others. Defendants, with knowledge of the infringing conduct, failed to reasonably secure, police and protect the use of his Internet service against use for improper purposes such as piracy, including the downloading and sharing of Plaintiff's motion picture by others. Defendants had the right and ability to supervise and control the activity constituting the infringement.

50. In doing so, each Defendant has directly, indirectly and/or contributorily violated Plaintiff's exclusive rights of at least reproduction, preparation derivative works and distribution. Each Defendant's actions constitute infringement of Plaintiff's exclusive rights protected under 17 U.S.C. § 101 et seq.

51. *Criminal* contains a copyright notice advising the viewer that the motion picture is protected by the copyright laws. Each of the Defendants' actions with respect to copyright infringement and other acts described herein were made with full knowledge of Plaintiff's ownership of the copyrights in the motion picture.

52. The conduct of each Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause the Plaintiff great and irreparable injury that cannot fully be compensated or measured in money. The Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, the Plaintiff is entitled to injunctive relief prohibiting each Defendant from further infringing the Plaintiff's copyright and ordering that each Defendant destroy all copies of the copyrighted motion picture made in violation of the Plaintiff's copyrights.

53. By reason of the foregoing acts, if such remedy is elected at trial, Plaintiff is entitled to statutory damages from Defendants pursuant to 17 USC §504, *et seq.* Alternatively, at Plaintiff's election, Plaintiff is entitled to its actual damages incurred as a result of Defendants' acts of infringement plus any profits of Defendants attributable to the infringements.

54. The foregoing acts of infringement have been willful, intentional, and in disregard of and with indifference to the rights of Plaintiff.

55. As a result of each Defendant's infringement of Plaintiff's exclusive rights under copyright, Plaintiff is entitled to its attorneys' fees and costs pursuant to 17 U.S.C. § 505.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against each Defendant as follows:

A. Pursuant to 17 U.S.C. §502, an order preliminarily and permanently enjoining each Defendant from directly or indirectly infringing Plaintiff's rights in *Criminal*

1 and any motion picture, whether now in existence or later created, that is owned
2 or controlled by Plaintiff, including without limitation by using the Internet to
3 reproduce or copy, distribute or otherwise make available for distribution to the
4 public Plaintiff's motion pictures, except pursuant to a lawful license or with the
5 express authority of Plaintiff.

- 6
- 7 B. Pursuant to 17 U.S.C. § 503, an order that each Defendant destroy all copies of
8 Plaintiff's motion pictures that Defendant has downloaded onto any computer
9 hard drive or server without Plaintiff's authorization and shall destroy all copies
10 of those motion pictures transferred onto any physical medium or device in each
11 Defendant's possession, custody, or control.
- 12 C. An order that each Defendant file with this Court and serve on Plaintiff, within
13 30 days of service of this order, a report in writing under oath setting forth in
14 detail the manner and form in which Defendants have complied with the terms of
15 the ordered relief.
- 16 D. Pursuant to 17 U.S.C. § 504 or other applicable provision, for actual or statutory
17 damages, at the election of Plaintiff, and a finding of willful infringement.
- 18 E. Pursuant to 17 U.S.C. § 505, for Plaintiff's reasonable attorney's fees and costs.
- 19 F. For such other and further relief as the Court deems proper.

20 RESPECTFULLY SUBMITTED this 28th day of November, 2016.

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25
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